

<b>Committee(s):</b>	<b>Date(s):</b>	
Planning & Transportation Policy & Resources	26 <sup>th</sup> February 2013 22 <sup>nd</sup> March 2013	
<b>Subject:</b> Consultation on City of London Community Infrastructure Levy Preliminary Draft Charging Schedule and draft Issues and Options Planning Obligations Supplementary Planning Document		<b>Public</b>
<b>Report of:</b> Director of the Built Environment		<b>For Decision</b>

### Summary

The Community Infrastructure Levy (CIL) is a statutory charge on new development intended to help fund the provision of new infrastructure. It is due to be introduced by April 2014 when it will largely replace s106 planning obligations, which will need to be scaled back.

The procedure for setting a CIL is laid down in regulations and requires the preparation of an Infrastructure Delivery Plan (IDP) to demonstrate that developer funding is required for new infrastructure, and an Economic Viability Study to demonstrate that the proposed CIL will not impact adversely on the general viability of development across an area.

Regulations prescribe that the CIL is subject to two rounds of public consultation, on a Preliminary Draft Charging Schedule and a Draft Charging Schedule, before being subject to consideration at a public examination in front of an independent inspector. This report concerns the documentation for the first round of public consultation on the proposed Preliminary Draft Charging Schedule.

An IDP and viability assessment have been undertaken to support the preparation of a City of London CIL. The viability assessment has been undertaken by external consultants and considers the potential to set a City CIL whilst still delivering the Mayoral CIL and Mayoral planning obligations to part fund the development of Crossrail, and essential City planning obligations to fund affordable housing and training and skills initiatives.

Taking account of the viability assessment and the need ensure continued funding for capital investment in infrastructure, a City CIL rate of £75 per square metre is proposed City-wide for commercial development, and a rate of £95 per square metre for residential development, except on the riverside, where a residential rate of £150 per square metre is proposed.

As part of the CIL preparation process, the City Corporation is required to prepare a list of the broad types of infrastructure which it intends CIL to help fund (the Regulation 123 List).

The City Corporation is also required to scale back existing s106 planning obligations to ensure that there is no double charging of CIL and s106 for the same items of infrastructure. Therefore a draft Issues and Options Planning Obligations Supplementary Planning Document has been prepared for consultation outlining changes to the Corporation's existing Supplementary Planning Guidance. This suggests scaling back planning obligations to a total of £23 per square metre for commercial development instead of the existing £70.

The City CIL would operate alongside the Mayor's CIL and Mayoral planning obligations to part fund the development of Crossrail which, for offices require a maximum contribution of £137 per square metre.

## **Recommendations**

That the proposed City CIL Preliminary Draft Charging Schedule, draft Regulation 123 List and draft Issues and Options s106 Planning Obligations Supplementary Planning Document be approved for public consultation.

## **Main Report**

### **Background**

1. The Community Infrastructure Levy (CIL) is a statutory charge on new development intended to help fund the provision of new infrastructure to support development. The legislative basis is contained in the Planning Act 2008, as amended by the Localism Act 2011. Detailed provisions for setting and charging a CIL are set out in the Community Infrastructure Levy Regulations 2010, amended 2011 and 2012.
2. CIL is intended to replace s106 planning obligations as the main source of developer contributions towards new infrastructure. Unlike s106, CIL is a fixed charge and is not subject to testing of the impact on the viability of individual development. In setting a CIL, a local authority is required to scale back its existing planning obligations to avoid 'double charging' the development industry for the same items of infrastructure. There is no requirement within legislation to set a CIL, but regulations restrict the pooling of five or more planning obligations to fund specific infrastructure from 6th April 2014. This would curtail the continued use of the City Corporation's existing SPG beyond 2014.
3. CIL should be consistent with and support the implementation of the local plan. It can be used to fund the provision, improvement, replacement, operation or maintenance of infrastructure, defined by the Planning Act 2008 as: roads and other transport facilities, flood defences, schools and other educational facilities, medical facilities, sporting and recreational facilities, and open spaces. Regulations specifically exclude CIL from funding affordable housing and revenue schemes e.g. education and skills provision. Funding for such elements will need to continue to be sought through s106 planning obligations.
4. Regulation 14(3) requires the City Corporation and the London Boroughs to take account of the Mayor's CIL in setting their own CIL. The Mayoral CIL came into effect on 1<sup>st</sup> April 2012 and is charged at a rate of £50 per square metre on the net increase in floorspace for most development in the City.
5. The City Corporation currently seeks developer contributions towards infrastructure through its 2004 Planning Obligations Supplementary Planning Guidance. This SPG seeks contributions at a rate of £70 per square metre on commercial development where there is 10,000m<sup>2</sup> gross total floorspace and an uplift of at least 2,000m<sup>2</sup>. The £70 is normally distributed as follows: 50% local community facilities and the environment, 30% affordable housing, 15% transport improvements and 5% training and skills provision in the City and City fringe. Affordable housing contributions are also sought from residential development in the form of 30% provision on-site, or exceptionally, an off-site commuted payment equivalent to 60% of the units in the development. As at 31<sup>st</sup> March 2012 a total of 74 s106 obligations had been signed with a total potential value of £116.1m. Payments are triggered by development proceeding and at that date £68.3m had been received.

## City of London Proposed Preliminary Draft Charging Schedule

### Infrastructure Delivery Plan

6. CIL Charging Authorities are required by regulation to demonstrate the need to set a CIL through an Infrastructure Delivery Plan (IDP) which sets out the infrastructure needed in an area, funding secured for delivery and additional funding required which could be provided, in part, through CIL. The City Corporation prepared an IDP in 2011 to support the Core Strategy. The IDP has been updated to support the CIL and a copy is available in the Members' Reading Room.
7. The IDP considers a range of infrastructure needs including: energy and pipe subways, communications and IT, water resources and waste water, flood risk minimisation, waste management, transport and public realm improvements, open spaces, social and community provision and emergency services. The current estimated cost of delivering this infrastructure, funding secured and the funding shortfall are summarised in Table 1.
8. Table 1 does not commit the City Corporation to deliver the precise infrastructure indicated and it is accepted that its detail will evolve as circumstances change. The main purpose of this table is to show that there is a substantial funding gap which would prevent the delivery of the infrastructure listed. This gap is justification for the setting of a City CIL to help with infrastructure delivery. City CIL spending priorities will be decided by Members following consideration of a separate report on the subject to be prepared later this year.

**Table 1: Infrastructure Delivery Plan Summary**

<b>Type of Infrastructure</b>	<b>Cost</b>	<b>Funding Secured</b>	<b>Funding Gap</b>	<b>Timescale</b>
Public realm enhancement strategies	£113.6m	£48.2m	£65.5m	2011-2026
Pipe subways	£50m - £70m	£0	£50m - £70m	Post 2016
Community facilities and supported housing	£34m	£3m	£31m	Unknown
Open space enhancement	£12.7m	£0	£12.7m	2011-2026
Education	£10m	£0	£10m	Unknown
Healthcare	£6m	£0	£6m	Unknown
Emergency services	£1.2m	£0	£1.2m	2011-2016
Play space	£170,000	£0	£170,000	Unknown
Flood risk alleviation	£40,000	£40,000	£0	2011-2016
<b>TOTAL</b>	<b>£247.7m</b>	<b>£51.2m</b>	<b>£196.5m</b>	

### Viability Appraisal

9. Charging Authorities are required to undertake an assessment of the impact of proposed CIL rates on the economic viability of development across their area, striking what appears to them to be an 'appropriate balance' between funding infrastructure through CIL and the impact of CIL on development viability. The City Corporation commissioned Gerald Eve to undertake an area-wide viability study for the City. The consultants were asked to provide advice on an appropriate range of potential CIL rates, including the potential for differential rates across the City. They were also

asked to undertake wide ranging stakeholder engagement with developers, investors, property agents and landowners in the City.

10. The consultants adopted a bespoke residual valuation model to test viability, in line with best practice guidance from the Royal Institution of Chartered Surveyors. The consultants considered viability on approximately 150 proxy sites across the City, identified on the basis of completed developments and outstanding permissions over the past 10 years. These sites were assessed in terms of current day values and costs, taking on board variations in rental, property and land values across the City and incorporating projections about future values and costs.
11. The modelling assumed development would be in line with policy in the City's Core Strategy and emerging Local Plan and the London Plan, allowing for high quality development and necessary site specific mitigation. It also assumed that developments would contribute to Mayoral CIL and Mayoral planning obligations, and scaled back City Corporation planning obligations:

<b>Other Types of Contribution Assumed</b>	<b>Rate (per sqm)</b>
Mayoral CIL to part fund Crossrail	£50
Mayoral s106 to part fund Crossrail	£137 offices; £88 retail; £60 hotels (discounted to allow for Mayoral CIL liability)
City s106 for affordable housing from commercial development	£21
City s106 for training and skills provision	£3.50
City s106 for affordable housing from residential development	30% on-site or 60% off-site
City s106/s278 for site specific mitigation	Site specific

12. The consultants have proposed that a single rate of CIL be set across the City for commercial development. They recommend that the CIL rate for commercial development should lie in the range £55-£75 per square metre. For residential development a range of £75-£95 is proposed, with the exception of development close to the Thames, where a rate of £140 - £150 is recommended.
13. The consultants advise that setting the CIL within these ranges would be consistent with a rate of return on development of between 14% (present day) and 18% (forecast growth), sufficient to allow development to proceed without impacting on the viability of development. In proposing these ranges, the consultants have undertaken a sensitivity analysis, assuming that CIL will remain in place until 2018/19 before review. This sensitivity has considered the potential growth in values and costs and allowed for potential voids and rent free periods.
14. The consultants have undertaken a series of workshops and individual meetings with stakeholders who, to date, have been largely supportive of the approach taken.
15. The consultants' full viability report is available in the Members' Reading Room.

#### Proposed City of London CIL Charging Schedule

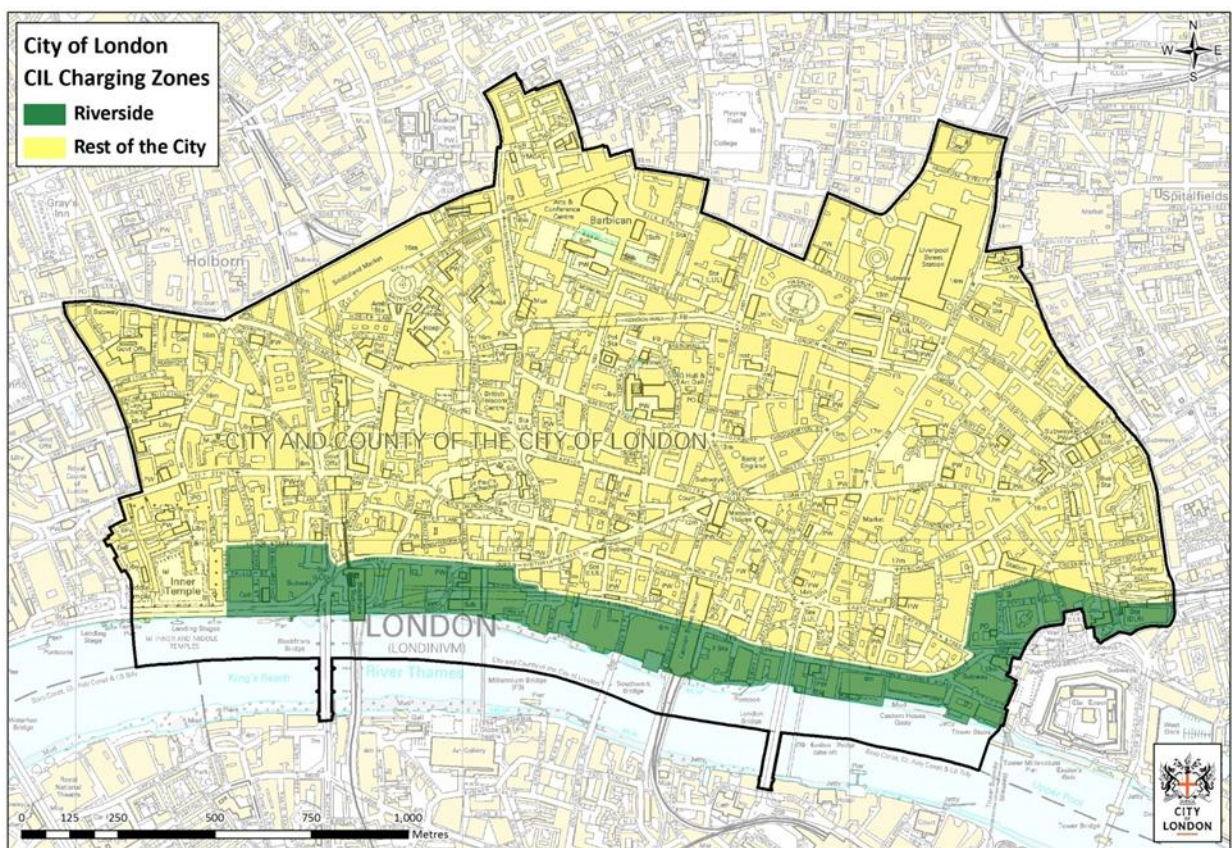
16. Following receipt of the consultants' recommendations, detailed discussions have taken place between the consultants, the Director of the Built Environment, the City Surveyor and the Chamberlain to determine the robustness of the recommendations and to consider the appropriate CIL charge rate/s. These discussions have considered the role of CIL in generating income for future capital investment in infrastructure and the projected impact on development viability including the potential impact of the charge on the reputation of the City as a place which promotes growth and business development. Consideration has also been given to the need to retain scaled back City s106 planning obligations, principally to fund affordable housing provision and

continued training and skills work in the City and City Fringe. The proposed CIL charge rates are considered to strike the required 'appropriate balance' between income generation for infrastructure and development viability.

17. The proposed City CIL charging schedule is summarised below and the more detailed proposed Preliminary Draft Charging Schedule for public consultation is attached as Appendix 1. The charges will apply City-wide except for the residential charges which will vary with location as defined in Figure 1.

Land Use	Zone	CIL Rate (£ per m <sup>2</sup> )
Offices	City-wide	£75
Residential	Riverside	£150
Residential	Rest of City	£95
Development used wholly or mainly for the provision of medical or health services, except the use of premises attached to the residence of the consultant or practitioner	City-wide	Nil
Development used wholly or mainly for the provision of education as a school or college under the Education Acts or as an institution of higher education	City-wide	Nil
All other uses	City-wide	£75

**Figure 1: CIL Charging Zones**



18. Nil rates for CIL are proposed for health and education related development, in line with the requirements in the Mayor's CIL. In addition, there are national exemptions from CIL for development by charities for charitable purposes and for social housing.

### **Types of Infrastructure to be funded by CIL**

19. Alongside the CIL Charging Schedule, the City Corporation is required to publish on its website a list of the types, or specific pieces of infrastructure that will be funded through CIL – the Regulation 123 List. Appendix 2 sets out the proposed City of London Regulation 123 List. It identifies broad types of infrastructure to provide greater flexibility for how CIL is spent in the City. It is recommended that this list be published for consultation alongside the CIL Preliminary Draft Charging Schedule.
20. The City Corporation can update the Regulation 123 List in response to changing circumstances at any time, subject to the need to seek comments on these changes through public consultation.

### **Draft s106 Planning Obligations Supplementary Planning Document**

21. CIL will provide potential funding for most types of infrastructure. However, funding for affordable housing and revenue funding, such as that for training and skills initiatives, are excluded, as is site specific mitigation necessary to make a development acceptable in planning terms.
22. Therefore it is recommended that, alongside the City CIL, some s106 planning obligations should continue to be sought, through a revised s106 Planning Obligations Supplementary Planning Document (SPD), principally to deliver:
23. Affordable Housing. The London Plan accepts that the City is principally a commercial centre and allows an exemption from its policy requirement for mixed use development including housing in central London, provided that a contribution is made from commercial development in the City towards affordable housing elsewhere. It is recommended that a s106 contribution for affordable housing is retained, set at **£20 per square metre** (approximately the same rate as currently sought), in order to continue this contribution to London's affordable housing delivery.
24. The Core Strategy, policy CS21, also seeks contributions towards affordable housing from residential development in the City where there is a net increase of 10 or more dwellings on the site. Policy requires 30% of dwellings to be affordable on-site or, exceptionally, allows for a financial contribution equivalent to 60% off-site. This provision needs to be retained to ensure that private housing developments in the City continue to contribute to affordable housing delivery.
25. Training and Skills. As part of its wider engagement agenda with adjoining boroughs to spread the benefits of the City's commercial development and to provide job and training opportunities to residents in neighbouring boroughs, the City Corporation seeks financial contributions from commercial development towards the provision of training and skills initiatives in the City and City fringe. It is recommended that this s106 contribution be retained at a rate of **£3 per square metre** from both commercial and residential development.
26. It is recommended that the revised s106 Planning Obligations SPD be prepared alongside the CIL documents to provide clear information to the development industry on the total level of contributions that will be required in the City. An Issues and Options document outlining key elements of the proposed SPD has been prepared for consultation and is attached at Appendix 3. A full draft SPD will be prepared in light of any comments received and would then be subject to formal consultation alongside

consultation on the CIL Draft Charging Schedule later in 2013. The draft SPD would then be submitted as evidence to the CIL public examination, and would be adopted at the same time as the CIL.

### **Mayoral CIL and Mayoral Planning Obligations**

27. Regulations require that the City Corporation takes account of any Mayoral CIL rate when setting its own City CIL. In April 2012, the Mayor introduced a London-wide CIL to raise £300m towards the funding of Crossrail, charged at a rate in the City of £50 per square metre. This rate has been factored into the viability testing for the City CIL and will continue to be charged alongside the City CIL.
28. The Mayor has also adopted supplementary planning guidance outlining a planning obligations charge on office, retail and hotel development, principally in Central London, to raise an additional £300m towards Crossrail. Within the City, planning obligations are sought at a rate of £137 per square metre for offices, £88 per square metre for retail and £60 per square metre for hotels. The cost of the Mayor's planning obligations for Crossrail has also been built into the viability modelling for the City CIL.

### **Total Charge on Development and Individual Scheme Viability Testing**

29. Taking account of the proposed City CIL charges, scaled back City planning obligations and Mayoral Crossrail charges, the potential combined charge on new office development (the principal development type) in the City would be (per square metre):

City CIL:	£75
City planning obligations:	£23
Mayoral CIL:	£50
Mayoral planning obligations:	£87 (£137-£50)
<b>Total</b>	<b>£235</b>

30. As set out in paragraph 13, the City's viability consultants consider that a total charge at this level would not adversely impact on general development viability in the City. Under CIL Regulations, CIL is a fixed statutory charge and cannot be reduced on the grounds of the impact on development viability. However, there is scope to negotiate on the s106 planning obligation liability, where an applicant can demonstrate that there would be an impact on individual scheme viability. For office development there would be a non-negotiable CIL charge (City + Mayoral) of £125 per square metre, and a negotiable s106 liability (City + Mayoral) of £110 per square metre.

### **Potential Income Generation**

31. CIL will replace planning obligations as the principal means of delivering developer-funded capital investment. Assuming that the scale of City development projected in the Core Strategy comes forward at a steady annual rate over the period to 2026, then the potential average annual income to the City Corporation from CIL and retained planning obligations could be in the region of £8m. This is a similar figure to the £8.5m average annual receipts from the existing approach to planning obligations during 2004-2012. In practice the annual income would fluctuate with the development cycle.

### **CIL Administration and Set-up costs**

32. Regulations allow the City Corporation to retain up to 5% of the annual CIL charge to cover the costs of administration. Regulations also allow this administration charge to



be rolled up for the first 3 years of the CIL to cover both initial set up costs and ongoing administration. Subject, therefore, to sufficient new floorspace being developed in the City, any staff and consultation costs incurred in establishing the CIL should be recoverable.

### **Annual Monitoring**

33. Regulations require the City Corporation to report on an annual basis on CIL income, expenditure on infrastructure and retained CIL funds.

### **Timetable**

34. The process for preparing a CIL is laid down in regulation and comprises two periods of public consultation, of at least 6 weeks, followed by a public examination before the CIL can be adopted. Regulations also place a limitation on the future pooling of contributions from planning obligations from 6<sup>th</sup> April 2014. To ensure that developer funding can continue to be pooled to deliver necessary infrastructure, it is important that the CIL is adopted before or soon after this date. The proposed timetable for progressing the City CIL is:

- Consultation on Preliminary Draft Charging Schedule: Late March – Early May 2013
- Consultation on Draft Charging Schedule: July – September 2013
- Public Examination: November/December 2013
- Adoption: March 2014

35. Following consultation on the Preliminary Draft Charging Schedule, there will be an opportunity to revise it to take account of comments received. Changes to the CIL will be brought back to Planning & Transportation and Policy & Resources Committees before the second round of consultation on the Draft Charging Schedule.

### **Strategic Environmental Assessment and Equalities Impact Assessment**

36. Under Article 3(8) of the European Union's Strategic Environmental Assessment Directive, SEA is not required for financial or budget plans and programmes. Paragraph 20 of the DCLG Community Infrastructure Levy Guidance 2012 confirms that the CIL Charging Schedule is a financial document and therefore not subject to the requirement for environmental assessment.
37. An Equalities Impact Assessment has been undertaken which concludes that the CIL will, overall, have a positive impact on most City residents and workers.

### **Options**

38. There is no requirement in regulation for the City Corporation to adopt a CIL. However, regulations prevent the pooling of 5 or more planning obligations to fund specific infrastructure from 6<sup>th</sup> April 2014. Failure to set a City CIL could therefore significantly impact on the capital funding available for infrastructure improvements. Therefore the City Corporation is justified in preparing for the operation of a City CIL.

### **Corporate & Strategic Implications**

39. The preparation of a Community Infrastructure Levy for the City of London accords with the requirements of:



- Corporate Plan vision to support and promote City as a world leader in international and financial business services.
- Department of the Built Environment Business Plan 2012-2015, Key Performance Indicator PP1: Prepare City Community Infrastructure Levy (CIL) and the procedure for prioritising CIL spending.
- Core Strategy policy CS4: Planning Contributions

## Implications

40. Setting a City CIL will ensure that contributions from developers can continue to be pooled to fund capital investment in new infrastructure. CIL regulations allow for preparation and administrative costs to be met from CIL income and so the CIL process should be self-financing on an ongoing basis.
41. If CIL is set at a level which adversely impacts on the overall viability of development in the City, it could reduce the City's attractiveness as an office location and reduce the growth in new floorspace, impacting on the City's reputation and capital and revenue income. If CIL is set too low, insufficient capital contributions are likely to be received to deliver necessary infrastructure projects. These risks have been mitigated through independent advice on viability and CIL rate setting. The two-stage consultation process and examination allow for refinement of CIL rates in response to comments received.
42. There are no legal issues arising from this report.

## Conclusion

43. National CIL regulations will in 2014 restrict the City Corporation's ability to continue seeking developer planning obligations to contribute towards new infrastructure provision. A CIL Preliminary Draft Charging Schedule is proposed to ensure continuation of developer contributions. The proposed CIL rate has been informed by robust viability evidence provided by independent consultants, and takes account of Mayoral CIL and Mayoral planning obligations requirements to part fund Crossrail and the need to retain City planning obligations to fund affordable housing and skills and training initiatives. Agreement is sought for public consultation on the CIL Preliminary Draft Charging Schedule and the draft Issues and Options Planning Obligations SPD.

## Background Papers:

Report to Planning & Transportation Committee, 13<sup>th</sup> December 2011 – Response to DCLG Consultation on Revised Community Infrastructure Levy Regulations, Mayoral CIL and City CIL Updates

## Appendices

Appendix 1: City of London Community Infrastructure Levy Preliminary Draft Charging Schedule

Appendix 2: City of London proposed Regulation 123 List

Appendix 3: Proposed City Planning Obligations Supplementary Planning Document Issues and Options

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